IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

WP(C).No. 3842 of 2007(G)

PETITIONER:

V.M. KUTTISANKARAN NAIR,
VILLAGE ASSISTANT (RETIRED),
VADAKKEMADATHIL HOUSE, MANNARKKAD TALUK,
PALAKKAD DISTRICT.

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENTS:
----

1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
REVENUE (C) DEPARTMENT,
THIRUVANANTHAPURAM.

2. ASSISTANT COLLECTOR, OTTAPALAM.

3. REVENUE DIVISIONAL OFFICER,
OTTAPALAM.

4. ACCOUNTANT GENERAL (A & E)
KERALA, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/11/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 3842/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE JUDGMENT OF THIS COURT IN OP NO. 16405/99.

EXT.P2. COPY OF THE PROCEEDINGS OF THE SUB COLLECTOR OTTAPALAM DT. 28/6/2000.

EXT.P3. COPY OF THE PROCEEDINGS OF THE R4 DT. 21/12/2000.

EXT.P4. COPY OF THE ORDER OF THIS COURT IN CMP NO. 16021/2001 IN OP NO. 16405/99.

EXT.P5. COPY OF THE GO RT NO. 6118/2005/RD DT. 19/11/2005.

EXT.P6. COPY OF THE REPRESENTATION DT. 2/2/00 PREFERRED BY THE PETITIONER.

EXT.P7. COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE GOVT. DT. 16/11/2007.

RESPONDENT'S EXHIBITS **NIL.**

True copy

tga

V.GIRI, J.

W.P.(C).No.3842 of 2007 W

Dated this the 30th day of November, 2007.

JUDGMENT

The petitioner retired as a Village Assistant on 30.11.1980. Apparently, there was a dispute as to his eligibility from pension on account of the fact his service in the Village Establishment under the hereditary system was not taken into account for the purpose of computing his pension. The petitioner had approached this court with O.P.No.16405/99. The writ petition was allowed holding that the petitioner's past service should be reckoned for the purpose of pension, as per Ext.P1 judgment.

2. Subsequently, by Ext.P2 order, pension was sanctioned only with effect from 13.08.1999. Thereafter, the Accountant General issued pension payment order admitting pension only with effect from 13.08.1999 as evidenced by Ext.P3. Petitioner sought for a clarification of Ext.P1 judgment and by Ext.P4, it was clarified

that the petitioner is entitled to pension from the date of his retirement. Thereafter, Ext.P5 was issued sanctioning the petitioner, the minimum statutory pension with effect from 30.11.1980.

3. The petitioner was then aggrieved by the fact that the eligibility for family pension, as such, was not endorsed in the Pension Payment Order. Petitioner's family consists of his wife and other surviving members of the family. The petitioner filed Ext.P6 representation. There was delay in the processing of the same. Since the petitioner is aged 83 and his wife is aged 70, petitioner prayed for a direction to the respondents to sanction family pension also, by endorsing the eligibility in the Pension Payment Order.

4. Learned Senior Government Pleader, on instructions, submits that the Government has taken into account all these aspects and the Finance Department has concurred with the proposal sanctioning family pension relatable to

the petitioner as a special case in relaxation of the rules and orders will be issued at the earliest. This submission is recorded.

In the circumstances, the writ petition is disposed of directing the 1st respondent to issue orders sanctioning family pension to the eligible members of the family of the petitioner and also to incorporate the same in the Pension payment Order of the petitioner, as early as possible, at any rate within two months from the date of receipt of a copy of this judgment. Once such orders are issued, copy of the same may be forwarded to the 4th respondent, who shall also, without delay, issue the Pension Payment Order. While passing orders, Ext.P7 representation shall also be taken into consideration.

Sd/-
(V.GIRI)
JUDGE

sk/

//true copy//